

REMARKS

Claims 1-27 are now pending and subject to a Restriction Requirement. Claims 16-25 are withdrawn as non-statutory "use" claims. In response, claims 2, 4-5, 11-13, 25, and 27 are cancelled. Claims 1, 3, 6-10, 14-24, and 26 are amended, while new claims 28-39 are added. Upon entry of the amendments, claims 1, 3, 6-10, 14-24, 26, and 28-39 (drawn to elected Invention I) remain pending.

ELECTION OF INVENTION

The Examiner requires election among four allegedly independent and distinct inventions:

- I. Claims 1-3, 6-10, 14-15, and 26-27, drawn to a compound of formula I, where X is S or O.
 - II. Claims 1-2, 4-10, 14-15, and 26-27, drawn to a compound of formula I, where X is n.
 - III. Claims 1-2, 6-8, 10, 14-15, and 26-27, drawn to a compound of formula I, where X is Te.
 - IV. Claims 11-13, drawn to a compound of formula II.
- Applicants elect Invention I without traverse.

ELECTION OF SPECIES

The Office Action also requires, if Invention I is elected, a further election of a single disclosed species of compound. Normally, a requirement for Restriction of species is permissible if there is a patentable difference between the species as claimed

and there would be a serious burden on the Examiner if restriction is not required. MPEP § 808.01(a). See also MPEP §§ 803 and 808.02. Where there is a relation disclosed between species, such a disclosed relation must be discussed and reasons advanced leading to the conclusion that the disclosed relation does not prevent restriction, in order to establish the propriety of the restriction. *Id.*

Applicants note that the Office Action of October 11, 2007, does not discuss the disclosed relationship between species nor the reasons leading to the conclusion that the disclosed relation does not prevent restriction, as required by the MPEP. It appears the species restriction has not been properly justified.

However, in the interest of advancing prosecution, and in light of a telephonic interview with the Examiner discussed below, Applicants elect the species of Example I, with the understanding that, upon finding the elected species is patentable, search and Examination will continue until the entire scope of elected Invention I is covered.

TELEPHONIC INTERVIEW

Applicants would like to thank Examiner Rahmani for the courtesies extended to Applicants' representative in a telephone conference on November 5, 2007. The nature of the species election requirement was discussed. The Examiner confirmed that election of species is required to establish a basis for searching the entire scope of Invention I. The Examiner also confirmed that the claims are subject to rejoinder under, for example MPEP § 809 and § 821.04(a).

CONCLUSION

Applicants believe a full responsive and timely answer has been made to the Office Action of October 11, 2007. Further and favorable consideration is urgently solicited. If the Examiner feels it would advance prosecution, she is invited to telephone the undersigned.

Respectfully submitted,

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